

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESALE PRICE )  
LITIGATION )  
\_\_\_\_\_  
 )  
**THIS DOCUMENT RELATES TO:** )  
 ) MDL No. 1456  
*United States of America ex rel. Ven-a-Care of* ) Civil Action No. 01-12257-PBS  
*the Florida Keys, Inc. v. Dey LP, et al., C.A.* )  
No. 05-11084 ) Subcategory No. 06-11337-PBS  
 )  
*United States of America ex rel. Ven-a-Care of* ) Hon. Patti B. Saris  
*the Florida Keys, Inc. v. Boehringer* )  
*Ingelheim Corp., et al., Civil Action No. 07-* )  
10248-PBS )  
 )

**MOTION FOR EXPEDITED ORDER PERMITTING USE OF DEPOSITIONS  
OF WITNESSES MORE THAN 100 MILES FROM THE COURTHOUSE  
AND FOR LEAVE TO SUBPOENA WITNESSES**

Plaintiffs hereby move for an expedited Order from the Court to assist in preparation, planning, and travel arrangements for the April 26, 2010, trial. As set forth more fully in the accompanying Memorandum, since the vast majority of witnesses for these cases reside more than 100 miles from the place of trial, plaintiffs request that the Court rule that:

- 1) plaintiffs may use the deposition testimony of witnesses in circumstances meeting the requirements for admissibility of Fed. R. Civ. P. 32, where witnesses are more than 100 miles from Boston; and
- 2) plaintiffs may serve trial subpoenas on witnesses located more than 100 miles from Boston, pursuant to the False Claims Act's nationwide service of process provision, 31 U.S.C. § 3731(a).

Respectfully submitted,

For the United States of America,

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## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused an electronic copy of the above "MOTION FOR EXPEDITED ORDER PERMITTING USE OF DEPOSITIONS OF WITNESSES MORE THAN 100 MILES FROM THE COURTHOUSE AND FOR LEAVE TO SUBPOENA WITNESSES" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ James J. Fauci

JAMES J. FAUCI

Assistant U.S. Attorney

Dated: March 4, 2010

## **LOCAL RULE 7.1 CERTIFICATION**

The undersigned counsel certifies pursuant to Local Rule 7.1(a)(2) that counsel for the United States conferred in good faith with counsel for Relator and the Defendants on the issues raised in this motion, and the parties were unable to agree.

/s/ Barbara Healy Smith

Barbara Healy Smith

Assistant U.S. Attorney

Department of Justice

Dated: March 4, 2010